

EXHIBIT F

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ALBANY

-----X

In the Matter of the
Special Proceeding Application of

INDEX NO. 900899-22

VW CREDIT INC.,

NOTICE OF CROSS-MOTION

Petitioner(s)/Plaintiff(s),

-against-

BOSCAINO COLLISION & TOWING CORP., and
THE NEW YORK STATE DEPARTMENT OF
MOTOR VEHICLES,

Respondent(s)/Defendant(s)..

-----X

CROSS-MOTION BY: Rosen Law LLC
Attorneys for Respondent/Defendant
BOSCAINO COLLISION & TOWING CORP.
216 Lakeville Road
Great Neck, New York 11020
(516) 437-3400

DATE, TIME & PLACE: March 27, 2023 at 9:30 A.M.
Hon. Richard M. Platkin
Albany County Courthouse
16 Eagle Street, Room 256
Albany, NY 12207

SUPPORTING PAPERS: Affirmation of Gary Rosen, Esq., dated March 17, 2023, the
Affidavit of Edward Boscaino and the exhibits thereto.

RELIEF SOUGHT: a) An Order dismissing the petition (the "Petition" – NYSCEF
Doc. 1) pursuant to CPLR §3211(a)(1), (7) and (8) on the basis that
Plaintiff failed to state a cause of action, Defendant's documentary
evidence attached hereto which unequivocally demonstrates that
the Defendant BOSCAINO COLLISION & TOWING CORP. had
and has a valid garagekeeper's lien and was entitled to auction the
certain 2019 AUDI motor vehicle (VIN: WAUL2AF20KN112497)
(the "Automobile"), and for failure to make proper service
pursuant to CPLR§311,

b) in the event that this Court denied Defendant's motion to dismiss, Defendant seeks an Order pursuant to CPLR §5015, CPLR §3012(d), and CPLR §2004 to excuse the delay in filing opposition to Petition and to permit Defendant to file an answer to this action so that this action may be heard on the merits;

c) an Order pursuant to CPLR §511(a)(b), changing the place of trial based upon the fact that Albany County is not the proper venue, given that none of the parties reside there, no aspect of the claim or transaction occurred there, Respondent/Defendant THE NEW YORK STATE DEPARTMENT OF MOTOR VEHICLES never responded to the Petition, and Plaintiff never moved for default within a year thus this action should be dismissed sue sponte pursuant to CPLR §3215(c), thus making the only proper venue for this action in Kings County, and that Respondent/Defendant THE NEW YORK STATE DEPARTMENT OF MOTOR VEHICLES was not a necessary party to this action, and that Plaintiff only named Respondent/Defendant THE NEW YORK STATE DEPARTMENT OF MOTOR VEHICLES to have jurisdiction in Albany County for Plaintiff's counsel's convenience;

d) Denial of Plaintiff's motion; and

e) relief as this Court may deem just and proper under the circumstances, together with the costs and disbursements of this action.

ANSWERING PAPERS:

Pursuant to CPLR 2214(b), all answering papers must be filed at least seven (7) days prior to the return date of this motion.

Dated: March 17, 2023

RESPECTFULLY SUBMITTED,



Gary Rosen, Esq.

Rosen Law LLC

Attorneys for Respondent/Defendant
BOSCAINO COLLISION & TOWING CORP.
216 Lakeville Road
Great Neck, New York 11020
516-437-3400